

## **REMARKS**

Reconsideration of the application is respectfully requested in view of the following remarks.

Although it is not acknowledged that it is necessary, in order to expedite prosecution, a terminal disclaimer with respect to U.S. Patent No. 6,841,182 accompanies this amendment.

Applicants appreciate the indication of allowability of claim 4.

The present invention as defined in claim 1 is directed to a spread composition which comprises olive oil wherein the spread composition has no perceivable olive oil odor and wherein the composition contains at least 10 ppm of olive oil-originating polyphenols. As indicated above, it appears that claim 4 has been indicated to be allowable, but in the event that this is not the case, analogous arguments to those used herein for claim 1 are applicable to claim 4.

Unrefined olive oil has a pronounced flavor and taste which is appreciated by consumers for some applications but which can be perceived negatively in bread spreads. Olive oil has recently received much favorable publicity, not just for its high content of oleic acid, but also for its content of natural anti-oxidants, particularly olive oil polyphenols. While olive oil can be deodorized by a refining treatment, the present specification explains at page 2 that olive oil is traditionally deodorized at temperatures of 250°C or even greater and that under such conditions the oil's minor components, including natural anti-oxidants, are nearly fully stripped away. Similarly, the

specification indicates at page 11 that an average olive oil after having been deodorized for one hour at the normal temperature of 255°C contains 1400 ppm of squalene and less than 10 ppm of polyphenols. Polyphenol content at various sparging temperatures are given in Table I at page 11 of the specification.

Decio, EP 421 504 is entitled "spreads containing chlorophyll." The spreads contain butterfat and unrefined vegetable oil. Decio relates particularly to embodiments of spreads containing unrefined olive oil and butterfat. Chlorophyll is said to be particularly sensitive to the refining process; hence although chlorophyll is present in many unrefined vegetable oils, it is said to be removed or decomposed during refining.

Decio et al. indicate that they have determined that when particular formulations are employed the mentioned refining processes are not necessary, and unrefined, unhydrogenated, i.e., cold pressed vegetable oils can be used in the manufacture of products which contain no added emulsifier and little or no trans fatty acid. However, the Office points to no teaching by Decio et al. to use a mild olive oil refining which permits largely retaining polyphenols.

The Office cites Cheng et al., U.S. Patent No. 5,374,751, which teaches refining of olive oil. However, the Office points to no teaching by Cheng et al. of a mild refining step which will spare the recited amounts of polyphenols and/or squalene. Therefore, Cheng does not appear to remedy the deficiencies of Decio nor does the Office point to any motivation in Cheng et al. to mildly refine the olive oil of Decio.

Lal Ganguli et al., EP 849 353 is directed to olive oil with a high polyphenols content and low bitterness, said to be obtained by exposing olive oil to an emulsified water phase which exhibits enzymatic debittering activity and/or by emulsifying with a water phase with a high polyphenol content. The Office does not point to anywhere in Lal

Ganguli wherein it is taught that olive oil with the recited levels of squalene and/or polyphenols and having no perceivable olive oil odor can be achieved.

The Office indicates that Applicant has not provided any objective evidence to show that the product of Decio does not have the recited features of the claims. Applicants submit that the Office has not shown sufficiently that the product of Decio would be expected to have the recited features of the claim, so that a case of *prima facie* obviousness is made out. Likewise, the Office points to no teaching in the secondary references which would suggest that they would have the recited characteristics in the claims or that they would suggest to one of ordinary skill to modify Decio et al. to bring their compositions within the claims.

As to the Office's statements concerning Ganguli and polyphenol volatility in the Office Action dated March 30, 2005, the Office has again pointed to the present examples which show polyphenol levels at various temperatures.

In view of the foregoing it is respectfully requested that the application be allowed.

The Office mailed a Notice of Abandonment on May 22, 2006. Applicants are still awaiting a decision on the petition to withdraw the holding of abandonment which was dated June 6, 2006 wherein it is asserted that the abandonment was untimely since a Notice of Appeal was filed and the case is still pending.

Respectfully submitted,



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